

PTO/SB/26 (09-04)

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

AFB00612

Divisional  
In re Application of: Phillip G. Wapner et al

Application No.: 10/024,836

Filed: 19 December 2001

For: MICROTUBES WITH AXIALLY VARIABLE GEOMETRIES AND METHOD OF MANUFACTURING  
SAME

The owner\*, The United States Government as represented by the Secretary of the Air Force, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,458,231 B1 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 22,531

Signature

11-30-04

Date

THOMAS C. STOVER

Typed or printed name

1-781-377-3779

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included. May be charged to Deposit Account  
AF 01-0465.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

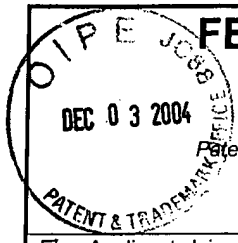
This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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12/16/2004 NNGUYEN1 00000055 010465 10024836

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110.00 DA



# FEE TRANSMITTAL for FY 2005

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 110.00)

## METHOD OF PAYMENT

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

Deposit Account Number

AF 01-0465

Deposit Account Name

Department of the Air Force

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Code	Fee (\$)	Code	Fee (\$)		
1001	790	2001	385	Utility Filing Fee	
1002	340	2002	170	Design Filing Fee	
1003	530	2003	265	Plant Filing Fee	
1004	790	2004	385	Reissue Filing Fee	
1005	160	2005	80	Provisional Filing Fee	

**SUBTOTAL (1)** 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
0	0	18	0
0	0	88	0
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Code	Fee (\$)	Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	43	Independent claims in excess of 3
1203	300	2203	145	Multiple dependent claim, if not paid
1204	88	2204	43	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)** \$ 0

\*\*or number previously paid, if greater; For Reissues, see above

## Complete if Known

Application Number 10/024,836  
Filing Date 19 December 2001  
First Named Inventor Phillip G. Wapner  
Examiner Name J. Rossi  
Group Art Unit 1733  
Attorney Docket Number AFB00612

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner Action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	210	Extension for reply within second month	
1253	980	2253	475	Extension for reply within third month	
1254	1,530	2254	740	Extension for reply within fourth month	
1255	2,080	2255	1,005	Extension for reply within fifth month	
1401	340	2401	165	Notice of Appeal	
1402	340	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	665	Petition to revive - unintentional	
1501	1,370	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) Terminal Disclaimer					110.00

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** \$ 110.00

## SUBMITTED BY

Complete (if applicable)

Typed or Printed Name	JULIAN L. SIEGEL	Registration. No.	22,407	Telephone	(781) 377-4072
Signature		Date	30 November 2004		
Typed or Printed Name		Registration. No.		Telephone	
Signature		Date			